

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

GUILFORD COLLEGE, *et al.*,

Plaintiffs,

v.

KIRSTJEN NIELSEN, *et al.*,

Defendants.

Civil Action No. 18-cv-891

PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1, Plaintiffs Guilford College, Guilford College International Club, The New School, Foothill De-Anza Community College District, Haverford College, The American Federation of Teachers, Jia Ye, and Sen Li respectfully move this Court for summary judgment on the first and third claims in their First Amended Complaint (Dkt. 14). As set out more fully in their memorandum in support of this motion, Plaintiffs are entitled summary judgment because the August 2018 Memorandum (1) is a legislative rule that is invalid for failure to observe the notice-and-comment procedures imposed by the Administrative Procedure Act, *see* 5 U.S.C. §§ 553, 706(2); and (2) is invalid because it conflicts substantively with the Immigration and Nationality Act, *see* 8 U.S.C § 1182(a)(9)(B); 5 U.S.C. § 706(2).

Respectfully submitted,

/s/ Paul W. Hughes

Paul W. Hughes

D.C. Bar No. 997235

Michael B. Kimberly

D.C. Bar No. 991549

Andrew A. Lyons-Berg*

McDermott Will & Emery LLP

500 North Capitol Street NW

Washington, DC 20001

(202) 756-8000

(202) 756-8087 (fax)

phughes@mwe.com

mkimberly@mwe.com

Cory S. Menees

N.C. State Bar No. 045111

Mayer Brown LLP

214 North Tryon Street, Suite 3800

Charlotte, NC 28202

(704) 444-3500

cmenees@mayerbrown.com

Counsel for Plaintiffs

H. Ronald Klasko*

Klasko Immigration Law Partners, LLP

1601 Market Street, Suite 2600

Philadelphia, PA 19103

(215) 825-8600

rklasko@klaskolaw.com

Counsel for Plaintiffs

David J. Strom*

Jessica Rutter

American Federation of Teachers

555 New Jersey Ave. NW

Washington, DC 20001

(202) 879-4400

dstrom@aft.org

jrutter@aft.org

*Counsel for the American
Federation of Teachers*

** Notice of Special Appearance Forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and have verified that such filing was sent electronically using the CM/ECF system to counsel for defendants.

Dated: July 22, 2019

/s/ Paul W. Hughes